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An ACT for Sale of an undivided Share of Tythes in the Isle of Wight, settled on John Foyle Small, Mary Small his Wife, and John Small their Son, an Infant; and for laying out the Money arising by such Sale in the Purchase of an Estate in the County of Gloucester, to be settled to the same Uses.



Whereas by Indenture of Four Parts, bearing Date the First Day of February One thousand Seven hundred and Forty-five, and made, or mentioned to be made, between George Small, of Uley, in the County of Gloucester, Gentleman, and John Foyle Small, of Uley aforesaid, Gentleman, only Son and Heir of the said George Small, by Margaret his late Wife, deceased, of the First Part; Mary Phelps, of Dursley, in the said County of Gloucester, Spinster, of the Second Part; Richard Cambridge, of Pudhill, in the Parish of Woodchester, in the said County of Gloucester, Esquire, and William Phelps, of Rainworthy, in the said County of Gloucester, Esquire, of the Third Part; and Viner Small, of Cirencester, in the said County of Gloucester, Esquire, and John Purnell, of Dursley aforesaid, Mercer, of the Fourth Part; and by other Assurance in the Law; All that the Third Part of One Fifth Part (the whole Fifth Part into Three equal Parts to be divided) of all those the

Tythes

Tythes of Corn, Grain, Hay, Wool, Lambs, Oblations, Obventions, and Emoluments, and all and all manner of Tythes whatsoever, of them the said *George Small* and *John Foyle Small*, or either of them, yearly coming, growing, or arising, within the Parishes, Villages, and Hamlets, of *Craisbrooke*, *Godsbill*, *Arton*, *Newchurch*, *Whippingham*, *Skorewell*, *Cale*, *Saint Laurence*, *Bratlin*, *Wooton*, *Middleton*, *Binbridge*, *Cosham*, and *Saint Nicholas*, or any or either of them, or within the Tythable Places thereof, in the *Isle of Wight*, in the County of *Southampton*; all which Tythes and Premises were given and devised unto the said *Margaret*, late Wife of the said *George Small*, and Mother of the said *John Foyle Small*, by the last Will and Testament of her Uncle *Henry Fleming*, Esquire, deceased; and the Reversion and Reversions, Remainder and Remainders, Rents and Services, of all and singular the said Premises, and of every Part and Parcel thereof, and all the Estate, Right, Title, Interest, Term of Years, Use, Possession, Property, Claim, and Demand, whatsoever, of them the said *George Small* and *John Foyle Small*, or either of them, of, in, to, or out of, the said Premises, and every Part and Parcel thereof; and all and every Rent and Rents, Heriots, and other Services, reserved, due, or payable, upon any Demise, Lease, or Grant, whatsoever, theretofore made of the said Premises, or any Part thereof, together with divers Farms, Lands, Tenements, and Hereditaments, in the County of *Gloucester*, therein mentioned and described; were, in Consideration of a Marriage then intended, and which soon after took Effect, and was solemnized, between the said *John Foyle Small* and *Mary Phelps*, and of the Portion or Fortune of the said *Mary Phelps*, therein mentioned, and for other Considerations, in the said Indenture of Four Parts, expressed, conveyed, and assured, unto the said *Richard Cambridge* and *William Phelps*, and their Heirs, to the Use of, or in Trust for, the said *John Foyle Small*, and his Assigns, for his Life, without Impeachment of Waste; Remainder to the said *Richard Cambridge* and *William Phelps*, and their Heirs, during the Life of the said *John Foyle Small*, in Trust, to preserve the contingent Remainders; and, after the Death of the said *John Foyle Small*, to the Use of, or in Trust for, the said *Mary Phelps*, now *Mary Small*, during her Life, for her Jointure, and in Bar of her Dower; and, after the Decease of the said *John Foyle Small*, and *Mary* his then intended Wife, and the Decease of the Survivor of them, then to the Use of, or in Trust for, the said *Viner Small* and *John Purnell*, their Executors, Administrators, and Assigns, for the Term of Five hundred Years, in Trust, for raising and paying such Sum or Sums of Money, not exceeding the Sum of Two thousand Pounds, for the Portion and Portions of the younger Child and Children of the said Marriage, in case of an eldest or only Son, at such Times, and in such Proportions and Manner, as the said *John Foyle Small*, and *Mary* his said then intended Wife, or as the said *John Foyle Small* alone, in case he should survive the said *Mary*, by any Deed or Deeds, by them or him duly executed, in the Presence of Two or more credible Witnesses, or as the said *John Foyle Small*, in case he should survive the said *Mary*, by his last Will or Testament, in Writing, by him signed, and published, in the Presence of Two or more Witnesses, should direct or appoint; and, for want of such Direction or Appointment, then the said Sum of Two thousand Pounds to be raised for, and equally divided between or amongst them, if more than One, Share and Share alike, and to be paid at such Times,

Times, and with such yearly Sums, for Maintenance, as is therein mentioned; and from and after the Expiration, or other sooner Determination, of the said Term of Five hundred Years, to the Use of, or in Trust for, the First, and every other, Son and Sons of the Body of the said *John Foyle Small*, on the Body of the said *Mary Phelps*, now *Mary Small*, to be begotten, successively, in Tail General; and, for want of such Issue, to the Use of, or in Trust for, all and every the Daughter and Daughters of the Body of the said *John Foyle Small*, on the Body of the said *Mary*, lawfully to be begotten, and the Heirs of the Body and Bodies of such Daughter and Daughters, lawfully issuing, to take as Tenants in common, and not as Joint-tenants; and, if any of the said Daughters should die without Issue, then to the Use of, or in Trust for, the surviving Daughter and Daughters, and the Heirs of her and their Body and Bodies, respectively, with the Remainder or Reversion, in Fee-simple, to the said *John Foyle Small*, and his Heirs for ever; in which said recited Indenture of Four Parts is contained a Power for the said *John Foyle Small*, and *Mary Phelps*, now *Mary Small*, when they should, respectively, be in Possession of the said Premises, to make and execute any Lease or Leases thereof, in Possession, and not in Reversion, to any Person or Persons, for any Term or Number of Years, not exceeding Twenty-one Years, at the best and most improved yearly Rents, without taking any Fine or Fines for the same:

And whereas the said Estate in the *Isle of Wight*, comprised in the said Settlement, consists of an undivided Fifteenth Part of certain Tythes, arising and renewing in several Parishes, Townships, and Hamlets, lying dispersedly in the said Island; and doth not, one Year with another, produce above the clear yearly Income of Fifty-five Pounds, exclusive of Land-Tax, and all other Deductions; and as the same lies remote from the rest of the Estate comprised in the same Settlement, which is situate in the County of *Gloucester*, and the Receipt of the Rents and Produce thereof is attended with Difficulty and Expence, the said *John Foyle Small*, and *Mary* his Wife, have proposed, and are willing and desirous, that the same should be sold, and disposed of; and that the Money arising by such Sale may be laid out in the Purchase of an intire Estate, in the County of *Gloucester*, more convenient for them, and more suitable to the Purposes of the said Settlement; and that such Lands, Tenements, and Hereditaments, when purchased, shall be settled to, for, and upon, such and so many of the Uses, Trusts, and Limitations, limited by the said recited Settlement of the Premises so proposed to be sold, as shall be then existing, undetermined, and capable of taking Effect:

And whereas the said *John Foyle Small* hath contracted and agreed with *Mill Bagster* and *Thomas Bagster*, for the Sale of the Inheritance, in Fee-simple, of the said Premises, in the *Isle of Wight*, for the Sum of Two thousand Two hundred and Thirty-three Pounds Six Shillings and Eight Pence, in case, and upon condition, a good Title can be made thereof, and the same effectually conveyed to them, and their Heirs: But although the carrying the same Agreement into Execution would be a great Advantage to the said *John Foyle Small*, and *Mary* his Wife, and be a means of producing a better and more certain Income for them, and their Issue, claiming under the said Settlement; Yet, by reason of the Limitations contained in the

the same Settlement, the Premises so contracted for cannot be effectually conveyed, nor a good Title made thereof to a Purchaser, without the Aid of an Act of Parliament:

Wherefore Your Majesty's most dutiful and loyal Subjects the said *John Foyle Small*, and *Mary* his Wife, for themselves, and on the behalf of *John Small*, their only Son, an Infant,

Do most humbly beseech Your most Excellent MAJESTY,

That it may be **Enacted**; And be it **Enacted**, by the KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all that the said Third Part of One Fifth Part (the whole Five Parts into Three equal Parts to be divided) of all those the said Tythes of Corn, Grain, Hay, Wool, Lambs, Oblations, Obventions, and Emoluments, herein before-mentioned and described, and all and every other the Tythes, Oblations, and Emoluments, and Parts and Shares of Tythes, Oblations, and Emoluments whatsoever, of him the said *John Foyle Small*, yearly coming, growing, or arising, within the Parishes, Villages, and Hamlets, of *Craisbrooke*, *Godsbill*, *Arcton*, *Newchurch*, *Wippingham*, *Shorewell*, *Cale*, *Saint Laurence*, *Bradwin*, *Wooton*, *Middleton*, *Binbridge*, *Cosham*, and *Saint Nicholas*, or any or either of them, or within the tythable Places thereof, in the *Isle of Wight*, in the said County of *Southampton*, comprised in the said recited Marriage-Settlement, and thereby settled, limited, and assured, to the several Uses, and for the several Purposes, herein before-mentioned, expressed, and declared, of and concerning the same, with their and every of their Appurtenances; and the Reversion and Reversions, Remainder and Remainders, Rents, Income, and Produce, of the same Tythes and Premises; shall, from and after the Twenty-fourth Day of June One thousand Seven hundred and Fifty-three, be settled upon, and vested in, and the same are hereby from thenceforth settled upon, and vested in, *Richard Jones*, and *George Jones*, both of *Thorvet Inn*, *London*, Gentlemen, their Heirs and Assigns, to the Use of them the said *Richard Jones*, and *George Jones*, their Heirs and Assigns for ever, freed and discharged, and absolutely exempted, exonerated, and indemnified, of, from, and against, all the Estates, Uses, Trusts, Limitations, Powers, Provisoes, and Agreements, in and by the said recited Settlement limited, created, provided, and declared, of and concerning the same; but nevertheless upon the Trusts, and to and for the Ends, Intents, and Purposes, and subject to the Provisoes and Declarations herein after-mentioned, expressed, and declared, of and concerning the same; that is to say, Upon Trust that they the said *Richard Jones*, and *George Jones*, and the Survivor of them, and the Heirs of such Survivor, upon Payment by the said *Mill Bagster* and *Thomas Bagster*, to the said Trustees, or the Survivor of them, or the Heirs, Executors, or Administrators, of such Survivor, of the said Sum of Two thousand Two hundred and Thirty-three Pounds Six Shillings and Eight Pence, for the Purchase of the Premises so contracted to be sold to them as aforesaid, shall and do convey and assure the said Third Part of the said Fifth Part, the whole Five Parts into Three equal Parts to be divided, of all and singular the said Tythes, Here-

ditaments,

ditaments, and Premises, hereby vested in the said Trustees, as aforesaid, with their and every of their Appurtenances, unto and to the Use of the said *Mill Bagster* and *Thomas Bagster*, their Heirs and Assigns for ever, or to such Person or Persons as they shall nominate and appoint; and also upon Trust, that in case the said Purchase and Conveyance shall not proceed, and be completed, on or before the Twenty-fourth Day of *June* One thousand Seven hundred and Fifty-three, then they the said *Richard Jones*, and *George Jones*, or the Survivor of them, or the Heirs of such Survivor, shall and do, with all convenient Speed, sell and dispose of the said Third Part of the Fifth Part, and Premises hereby vested and directed to be sold, as aforesaid, or any Part or Parts thereof, unto any Person or Persons who shall be willing to become Purchaser or Purchasers thereof, or of any Part thereof, for the most Money, and best Price and Prices, that they can get for the same; so as the Whole of such Purchase-money shall not be less than the said Sum of Two thousand Two hundred and Thirty-three Pounds Six Shillings and Eight Pence; and also upon Trust, that they the said Trustees, or the Survivor of them, or the Heirs of such Survivor, shall and do, by and with the Consent and Approbation of the said *John Foyle Small*, and *Mary Small*, and the Survivor of them, and, after the Death of the Survivor of them, of their own Authority, lay out, apply, and dispose of, the Money for which the same, or any Part thereof, shall be sold in pursuance of this Act, in One or more Purchase or Purchases of Lands, Tenements, and Hereditaments, in Fee-simple, in Possession, in the County of *Gloucester*; and, immediately after such Purchase or Purchases shall be made, shall and do settle, convey, and assure, the Lands, Tenements, and Hereditaments, to be purchased, to, for, upon, and subject to, such and so many of the Uses, Estates, Trusts, Powers, Provisoos, and Limitations, in and by the said recited Settlement, limited, expressed, created, and declared, of and concerning the said Third Part of the said Fifth Part of the said Tythes and Premises hereby vested, as aforesaid, as shall be then existing undetermined, or capable of taking Effect.

And it is hereby Enacted and Declared, by the Authority aforesaid, That in the mean time, and until such Sale and Conveyances, respectively, shall be made, in pursuance of this Act, as aforesaid, they the said *Richard Jones*, and *George Jones*, and the Survivor of them, and the Heirs of such Survivor, shall and do permit and suffer the said Third Part of the Fifth Part of the said Tythes and Premises hereby vested in them, as aforesaid, to be held and enjoyed, and the Rents, Income, and Produce thereof, to be had, received, taken, and applied, by and for the Benefit of such Person and Persons as would be intitled to, and ought to hold, enjoy, and receive the same, in case this Act had not been made.

And it is hereby further Enacted and Declared, That in the mean time, and after the Sale and Conveyances of the said Third Part, and Premises, hereby vested to be sold, as aforesaid; and until the Money arising by such Sale shall be laid out in the Purchase of Lands, Tenements, and Hereditaments, pursuant to this Act; it shall and may be lawful to and for the said *Richard Jones*, and *George Jones*, and the Survivor of them, and his Heirs, by and with such Consent and Authority as aforesaid, to place out the

said Money, arising by such Sale as aforesaid, upon Government or real Security at Interest; and also, from time to time, to call in the Principal-money so to be placed out, and to place out the same again, at Interest, on new or other Securities of the like Nature: And that the Interest, Dividends, and Produce, arising and to be produced from such Securities, shall be paid to such Person and Persons as would be intitled to the Rents, Issues, and Profits, of the Lands and Hereditaments hereby directed to be purchased, in case the same were purchased and settled pursuant to this Act.

And it is hereby further Enacted and Declared, That all and every Person and Persons to whom the said *Richard Jones*, and *George Jones*, or the Survivor of them, or the Heirs of such Survivor, shall, by virtue of and in pursuance of this Act, make any Sale and Conveyance of all or any Part of the Third Part and Premises, hereby vested in them, in Trust to be sold, as aforesaid, and the Heirs and Assigns of such Purchaser and Purchasers, shall and may, upon Payment of their respective Purchase-moneys to the said *Richard Jones*, and *George Jones*, or the Survivor of them, or the Heirs of such Survivor, have, hold, and enjoy, the said Third Part and Premises, or any Part thereof, so by them respectively to be purchased, freed and discharged of and from all the Estates, Trusts, Powers, Provisoos, and Limitations, in and by the said recited Settlement, limited, created, and declared, of and concerning the same: And that the Receipt and Receipts of the said *Richard Jones*, and *George Jones*, or the Survivor of them, or the Heirs of such Survivor, under their or his Hands or Hand, respectively, shall, from time to time, be a good and effectual Discharge to the Purchaser and Purchasers of the Premises, or any Part thereof, his, her, and their Heirs, Executors, and Administrators, for so much of the said Purchase-money, for which such Receipt or Receipts shall be given; and, after such Receipts, such Purchaser and Purchasers shall be, and he, she, and they, respectively, are hereby absolutely acquitted and discharged of and from the same; and shall not be answerable or accountable for any Loss, Misapplication, or Non-application, of the said Purchase-money, or any Part thereof.

And it is hereby further Enacted and Declared, That the said *Richard Jones*, and *George Jones*, shall not, nor shall either of them, or the Heirs, Executors, or Administrators, of either of them, be answerable or accountable for any Money to be received by virtue of or under the Trusts hereby in them reposed, any otherwise than each Person for such Sum and Sums of Money as he shall, respectively, actually receive: And that no one of them shall be answerable or accountable for the Acts, Receipts, Neglects, or Defaults, of the other of them; or for the Loss of any Moneys in placing the same out, unless the same happen by or through their wilful Default: And also that they the said *Richard Jones*, and *George Jones*, their respective Heirs, Executors, and Administrators, shall and may, by and out of the Rents, Produce, and Profits, of the said Third Part and Premises, hereby vested in them, as aforesaid, or out of the Money arising by Sale thereof, retain to and reimburse themselves all reasonable Costs, Charges, and Expences, that they respectively shall or may sustain, or be put unto, in and about the Execution of the Trusts hereby in them reposed.

Saving always to the KING's most Excellent MAJESTY, his Heirs and Successors, and to all and every Person and Persons, Bodies Politick and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators (Other than and except the said *John Foyle Small*, and *Mary* his Wife, and the First and every other Son and Sons of the said *John Foyle Small*, on the Body of the said *Mary Small* his Wife begotten, or to be begotten; and the Heirs of the Body and respective Bodies of such Son and Sons, and all and every the Daughter and Daughters of the said *John Foyle Small*, on the Body of the said *Mary* his Wife begotten, or to be begotten, and the Heirs of their respective Bodies; and the Heirs of the said *John Foyle Small*, and the several Trustees named in the said recited Settlement, either to preserve the contingent Remainders, or to execute the Trusts of the said Term of Five hundred Years, their respective Heirs, Executors, Administrators, and Assigns; and all and every other Person and Persons claiming, or to claim, any Use, Trust, Estate, Interest, Portion, Sum or Sums of Money, either in Law or Equity, of, in, to, or out of, the Third Part and Premises hereby vested, by virtue of, or under the Limitations of, the said recited Settlement, or any Part thereof), All such Estate, Right, Title, Interest, Benefit, Property, Claim, and Demand, whatsoever, of, in, to, or out of, the Third Part and Premises hereby vested, as aforesaid, every or any Part thereof, as they, every or any of them, had before the passing this Act, or could or might have had and enjoyed, in case this Act had not been made.

*An ACT for Sale of an undivided
Share of Tythes in the Ile of
Wight, settled on John Foyle
Small, Mary Small his Wife, and
John Small their Son, an Infant;
and for laying out the Money
arising by such Sale in the Pur-
chase of an Estate in the County
of Gloucester, to be settled to the
same Uses.*

[1753.]